

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

HENRY LEE CRAIG, #76582

PETITIONER

v.

CAUSE NO. 1:16cv371-LG-FKB

**J. BRADLEY, WARDEN
and G. WALKER, WARDEN**

RESPONDENTS

**ORDER ADOPTING REPORT AND RECOMMENDATION AND
DISMISSING ACTION**

This cause comes before the Court on the [29] Report and Recommendation of United States Magistrate Judge F. Keith Ball with respect to (1) Respondent Mississippi Department of Corrections' Motion to Dismiss [18]¹ filed pursuant to 28 U.S.C. § 2254(d), to which Petitioner Craig has responded; (2) Craig's Motion for Consideration of Equitable Tolling [21]; (3) Craig's Motion for Order to Show Cause [24]; and (4) Craig's Motion to Vacate Judgment [27]. For the reasons discussed herein, the Court is of the opinion that this action should be dismissed with prejudice.

On August 4, 2017, Magistrate Judge Ball recommended that this Court grant the Motion to Dismiss and dismiss the action with prejudice because Craig's Petition is untimely under 28 U.S.C. § 2244. He also recommended that this Court deny Craig's Motions because Craig has failed to show, *inter alia*, that he is entitled to statutory or equitable tolling of the federal statute of limitations.

¹Per Court Order [8], filed on December 29, 2016, the Defendant Mississippi Department of Corrections was replaced with Warden J. Bradley and Warden G. Walker. (See Order 1, ECF No. 8).

Craig has not timely objected to any aspect of the Magistrate Judge's Report and Recommendation. Where no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *See, e.g., United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court is of the opinion that Magistrate Judge Ball's Report and Recommendation is neither clearly erroneous nor contrary to law. Accordingly, the Court finds that the [29] Report and Recommendation should be adopted as the opinion of this Court.

IT IS THEREFORE ORDERED AND ADJUDGED that the [29] Report and Recommendation of United States Magistrate Judge F. Keith Ball should be, and hereby is, adopted as the opinion of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the [18] Motion to Dismiss is **GRANTED** and the [21] Motion for Consideration of Equitable Tolling, [24] Motion for Order to Show Cause, and [27] Motion to Vacate Judgment are **DENIED**.

IT IS FURTHER ORDERED AND ADJUDGED that Petitioner Craig's petition is **DISMISSED WITH PREJUDICE**. A separate Final Judgment will be entered.

SO ORDERED AND ADJUDGED this the 24th day of August, 2017.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE